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EXAMINER
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BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
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2143

13

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/587,236

Applicant(s)

THOMAS ET AL.

Examiner

Alina N Boutah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-10,12-15 and 17-24 is/are pending in the application.

4a) Of the above claim(s) 22 is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-10, 12-15, 17-21, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.                      6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to Applicant's amendment filed April 12, 2004. Claims 3, 11, 16 and 25-28 have been cancelled. Claims 1-2, 4-10, 12-15, 17-21, 23 and 24 are pending in the current application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-10, 12-15, 17-21, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,796,952 issued to Davis et al. (hereby Davis).

(Amended) Regarding claim 1, Davis teaches a system for monitoring usage of an electronic device comprising:

a client component installed in a client device, said client component being operative to monitor usage of said client device in accordance with a monitoring profile and to generate corresponding usage data (figure 3; Abstract; col. 4, line 3 to col. 5, line 55); and

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a server component, installed on a server device in communication with said client device, for providing said monitoring profile to said client device and for receiving said usage data from said client device (figure 4; Abstract; col. 4, line 3 to col. 5, line 55);

wherein said monitoring profile includes information specifying which application programs, and which features of said application programs, installed on said client device are to be monitored by said client component (abstract, figures 3-7, col. 4, lines 45-53, col. 5, lines 35-56).

Regarding claim 2, Davis teaches the system of claim 1 further including a data management component disposed to store said monitoring profile and to store said usage data provided to said server device (col. 4, line 63 to col. 5, line 3).

Regarding claim 4, Davis teaches the system of claim 3 further including a profile management component for creating said monitoring profile, said monitoring profile including a plurality of application profiles each associated with one of said application programs (col. 5, lines 35-44).

Regarding claim 5, Davis teaches the system of claim 1 further including a data analysis component for, based upon said usage data, determining usage statistics associated with application program installed on said client device wherein said usage statistics include measurements of usage time, number of uses, and sequence of usage of specified ones of said application programs (col. 4, lines 13-15, 25-32, 41-53).

Regarding claim 6, Davis teaches the system of claim 1 further including a profile management component for creating and editing said monitoring profile, said monitoring profile specifying which application programs installed on said client device are to be monitored and a frequency with which said usage data is to be reported to said server component (col. 4, line 64 to col. 5, line 3).

Regarding claim 7, Davis teaches the system of claim 5 wherein said profile management component allows for definition of a set of users of said client device to be monitored in accordance with said monitoring profile (Abstract).

Regarding claim 8, Davis teaches the system of claim 1 wherein said client component includes a client monitoring agent for collecting said usage data in accordance with said monitoring profile and for providing said usage data to said server component, said client component further including a client service for requesting said monitoring profile from said server component and for starting said client monitoring agent upon receipt of said monitoring profile from said server component (figure 3; Abstract; col. 4, line 3 to col. 5, line 55).

Claim 9 is similar to claim 1 except there are a plurality of client components installed on a plurality of client computers, therefore is similarly rejected under the same rationale (figures 1 and 4; Abstract; col. 4, line 3 to col. 5, line 55).

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Regarding claim 10, Davis teaches the system of claim 9 further including a data management component disposed to store said monitoring profiles and to store said usage data provided to said server component from each of said client components (figure 3).

Regarding claim 12, Davis teaches the system of claim 11 further including a profile management component for creating each of said monitoring profiles that each of said monitoring profiles includes a plurality of application profiles, each of said application profiles being associated with one of said associated application programs (figure 6).

Regarding claim 13, Davis teaches the system of claim 9 further including a profile management component for creating each of said monitoring profiles and for specifying which of said monitoring profiles will be applicable to usage of said client computers by particular users (figure 6).

(Amended) Regarding claim 14, Davis teaches a method for monitoring computer usage comprising the steps of:

monitoring usage of each of a plurality of client computers in accordance with an associated monitoring profile (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55), wherein said monitoring profile includes information specifying which application programs, and which features of said application programs, installed on said client device are to be monitored by said client component (abstract, figures 3-7, col. 4, lines 45-53, col. 5, lines 35-56);

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generating usage data based upon said monitoring and providing said usage data to a server computer (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55); and

transmitting said monitoring profiles to said client components from said server computer (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55).

Regarding claim 15, Davis teaches the method of claim 14 further including the step of storing said monitoring profiles remote from said client computers, and the step of storing said usage data provided to said server component from each of said client components (figure 4).

Regarding claim 17, this is similar to claim 12, therefore is rejected under the same rationale.

Regarding claim 18, this is similar to claim 7, therefore is rejected under the same rationale.

Regarding claim 19, Davis teaches the system of claim 3 wherein said client component includes means for monitoring usage statistics for specified features of said application program via predefined application programming interfaces of said application programs (col. 4, lines 13-15, 25-32, 41-53).

Regarding claim 20, Davis teaches the method of claim 16 further including the step of monitoring usage statistics for specified features of said application programs via predefined

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application programming interfaces of said application programs (col. 4, lines 13-15, 25-32, 41-53).

(Amended) Regarding claim 21, Davis teaches a method for monitoring user interaction with an application executing on a client device, said application being downloaded to said client device from a remote location, said method comprising the steps of:

embedding a reference to a collection agent with said application (Abstract);  
resolving said reference and installing said collection agent on said client device  
(Abstract);

monitoring usage of said client device in accordance with a monitoring profile and generating corresponding usage data (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55), wherein said monitoring profile includes information specifying which application programs, and which features of said application programs, installed on a corresponding one of said client computers are to be monitored (abstract, figures 3-7, col. 4, lines 45-53, col. 5, lines 35-56); and

transmitting, from a monitoring location, said monitoring profile to said collection agent and receiving said usage data at said monitoring location (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:



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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzke in view of Davis.

(Amended) Regarding claim 23, Kurzke teaches a method for providing assistance to a user of an application program executing on a client computer, said method comprising the steps of:

monitoring user interaction with said application program in accordance with an associated monitoring profile (Abstract);

generating usage data based upon said monitoring (page 654, right column, paragraph 1);  
and

recommending to said user further interaction with said application program on the basis of said usage data (page 654, right column, paragraph 1).

However, Kurzke fails to explicitly teach wherein said monitoring profile includes information specifying which application programs, and which features of said application programs, installed on a corresponding one of said client computers are to be monitored. Davis teaches a monitoring profile including information specifying which application programs, and which features of said application programs, installed on a corresponding one of said client computers are to be monitored (abstract, figures 3-7, col. 4, lines 45-53, col. 5, lines 35-56). At the time the invention was made, one of ordinary skill in the art would have been motivated to employ a monitoring profile to include information specifying which application and which

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feature of the application to be monitored in order to track client's interaction with a network resource, thus allowing administrator to manage the network resources, therefore maximizing the network resources efficiency.

***Response to Arguments***

Applicant's arguments in regards to the rejection of claims 1, 9, 14 and 21 have been fully considered but they are not persuasive.

In response to Applicant's argument that Davis fails to disclose or suggest "a monitoring profile which includes information specifying which application programs, and which features of the application programs are to be monitored," the Patent Office respectfully submit that this feature is disclosed in the Abstract, figures 3-7, col. 4, lines 45-53, and col. 5, lines 35-56 of the Davis reference. Specifically, Davis discloses executable program that includes a software timer for monitoring the amount of time the client spends interacting with and displaying the file downloaded from the server as well as monitoring keyboard events, mouse events, etc. In this case, the executable program is interpreted as an application program, and the timer and the events are interpreted as the features of which the program is to be monitored. Therefore, the rejection is sustained.

Applicant's arguments with respect to claim 23 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N Boutah whose telephone number is (703) 305-5104. The examiner can normally be reached on Monday-Thursday (9:00 am-7:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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